



The Fashion Jewelry & Accessories Trade Association
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To: General Law Committee

IN SUPPORT OF CONNECTICUT HB6743 AS AMENDED

***AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE TASK FORCE
ON CADMIUM IN CHILDREN'S JEWELRY.***

In the interest of safeguarding children in Connecticut, the Fashion Jewelry and Accessories Trade Association (FJATA)¹ would like to submit this statement in support of HB6743 with amendments, An Act Implementing the Recommendations of the Task Force on Cadmium in Children's Jewelry.

As background, there has not been a US jewelry recall since 2012 according to CPSC data at saferproducts.gov and second, the trend is for FJATA members and other fashion jewelry and accessories companies to reduce cadmium use regardless of any legislation.

In particular, with respect to the proposed amendments, the requirement for companies to register with a state agency, pay a fee, and formally submit compliance documents to the state simply because they sell children's jewelry has been stricken. The procedure appears punitive without cause. The added administrative costs associated with filing compliance forms places an undue burden on business and amounts to a tax.

While proposed changes eliminate the fine for intentional non-compliance, it preserves the right of the Commissioner of Consumer Protection to ask the company to initiate a recall, which maintains the safety net of removing potentially hazardous products from store shelves. FJATA supports the change because fines do not acknowledge that the real motivation for a company to comply is to avoid brand-damaging recalls, which involve costs that rise far above the penalty that is part of the current bill language.

The task force recommendation that jewelry contain no more than 0.03% (300 ppm) cadmium by weight remains. Our continuing message, one we are disappointed that the task force rejected, is that a product containing cadmium is not hazardous. What is hazardous is a product that releases

¹ FJATA's membership includes in excess of 230 companies, from large multi-national corporations to small family businesses that manufacture and distribute jewelry internationally.

harmful quantities of cadmium, which is the reason FJATA supports migration testing as the only proper assessment of risk. The Consumer Product Safety Commission (CPSC) has taken the view in an extensive report that involved testing of actual jewelry samples that solubility testing is the only way to reliably measure risk of exposure. As a result, CPSC urged the ASTM Subcommittee on Children's Jewelry to adopt solubility testing while developing the Children's Jewelry Safety Standard, ASTM F2923-14.

In November 2014, that standard was reviewed through a consensus process by committee members that included jewelry producers, retailers, testing laboratories and consumer groups, as well as representatives from the CPSC. There were no proposed changes to the cadmium requirements from the earlier version developed in 2011, indicating that the standard is working well and meets with the approval of a diverse peer-review body. The subcommittee noted that for surface coatings, a 75 ppm soluble standard is health-protective, a position supported in ASTM F963, the formerly voluntary standard for toys that became mandatory throughout the U.S. through its inclusion as part of the Consumer Product Safety Improvement Act (CPSIA) of 2008. The ASTM F963 mandate is a very important consideration for this committee, as the requirements of ASTM F2923 parallel requirements in ASTM F963. These requirements are well understood by the national community of regulators and the regulated.

A Historical Review of CPSC's Technical Research and Actions on Cadmium

When reports suggested that cadmium might be present in children's jewelry, both CPSC and FJATA began conducting tests to assess the potential for children to be exposed to harmful levels of cadmium. CPSC also received a petition requesting that it adopt a total content limit of cadmium on "toy jewelry" filed by a coalition of environmental groups in May, 2010². In the meantime, the state of Connecticut enacted a 75 ppm total content limit before the CPSC's extensive technical work was completed, with an effective date of 2014 in anticipation that additional technical data might become available prior to the effective date.

The CPSC report rejected a total content cadmium limit for risk assessment in children's jewelry. This report on cadmium in metal and plastic components of children's jewelry establishes that a total content limit is not scientifically valid since "soluble cadmium migration is not generally proportional to cadmium content" and "product composition factors such as element content and coatings have a larger effect on cadmium migration than does total cadmium content."³ Instead, the CPSC recommended migration testing to correctly assess the potential for harmful exposure to cadmium. It expressly urged the jewelry and toy industries to consider the agency's technical input and recommended migration testing on separate ASTM standards for children's jewelry and toys (ASTM F2923-11 and ASTM F963- 11, respectively). Notably, CPSC's test results were consistent with test results commissioned by FJATA, which also failed to show a reliable relationship between total cadmium content and migration⁴.

² Citizen Petition Regarding Cadmium in Children's Products, Especially Toy Metal Jewelry, May 28, 2010, available at <http://www.cpsc.gov/LIBRARY/FOIA/FOIA10/petition/cadmium.pdf>.

³ Memo to Kristina Hatlelid from Ian A. Elder, Assessment of Cadmium Migration from Materials, June 3, 2010, contained in CPSC Report: Cadmium in Children's Metal Jewelry, October, 2010, p. 55. See footnote 2, *supra*.

⁴ Exponent Technical Report, Evaluation of Cadmium in Metal Jewelry, November, 2010, available at <http://www.fjata.org/wp-content/uploads/EXPONENTcadmiuminjewelryreport2011.pdf>.

The Children's Jewelry Safety Standard adopted the CPSC's recommendation for a total content screening limit of 300 ppm for cadmium in substrate (plastic or metal) with a migration option. Although jewelry containing less than about 1.35% cadmium was not found to have the potential for harmful exposure in CPSC's tests, the standard adopted this lower screening limit of 300 ppm to provide added assurance that products would never result in adverse health effects to children. The migration standard assures that in the rare instance where items exceed the limit, migration testing would assure safety in accordance with CPSC's research.

The ASTM F2923 approach to managing potential risks of cadmium exposure in children's jewelry has the support of the CPSC, which rejected a petition requesting a mandatory content limit. The agency, in considering if the standard would adequately address potential exposure risks, reiterated its findings, namely, that there was "no clear relationship between the extractability of cadmium from children's metal jewelry."⁵ CPSC staff also noted that the 300 ppm screening limit "represents a relatively low cadmium concentration that is not expected to be associated with harmful exposure or subsequent adverse health effects."⁶ In a bipartisan vote, the CPSC Commissioners adopted the staff's recommendation that the standard was health-protective and unanimously denied a petition seeking a mandatory total content limit on cadmium in "toy jewelry" in July, 2012⁷. The CPSC staff and Commissioners have recognized the scientific adequacy of the jewelry safety standard in addressing the potential risk of cadmium in children's jewelry.

Conclusion

The CPSC Commissioners have recognized and supported the cadmium protocol authorized in the scientifically-reviewed international safety standard for children's jewelry, ASTM F2923. FJATA urges Connecticut to support HB 6743 as amended, a bill that would serve to better harmonize cadmium restrictions in this state with federal law, CPSC recommendations, and existing state requirements.

Best Regards,

Brent Cleaveland
Chairman ASTM F15.24
Executive Director
The FJATA

⁵ Staff Briefing Package, Staff Update Petition HP 10-2 Requesting Restriction on Cadmium in Toy Jewelry, June 29, 2012, at p. 9, available at <http://www.cpsc.gov/PageFiles/91376/cadmium.pdf>.

⁶ Id at p. 9.

⁷ See Record of Commission ballot vote at <http://www.cpsc.gov/library/foia/ballot/ballot12/cadmiumpet.pdf>.